

covered by the discharged material). It does not include areas excavated nor areas impacted as an indirect effect of the fill.

(g) *Discretionary authority* means the authority described in §§ 330.1(d) and 330.4(e) which the Chief of Engineers delegates to division or district engineers to modify an NWP authorization by adding conditions, to suspend an NWP authorization, or to revoke an NWP authorization and thus require individual permit authorization.

(h) *Terms and conditions*. The “terms” of an NWP are the limitations and provisions included in the description of the NWP itself. The “conditions” of NWPs are additional provisions which place restrictions or limitations on all of the NWPs. These are published with the NWPs. Other conditions may be imposed by district or division engineers on a geographic, category-of-activity, or activity-specific basis (See 33 CFR 330.4(e)).

(i) *Single and complete project* means the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. For example, if construction of a residential development affects several different areas of a headwater or isolated water, or several different headwaters or isolated waters, the cumulative total of all filled areas should be the basis for deciding whether or not the project will be covered by an NWP. For linear projects, the “single and complete project” (i.e. single and complete crossing) will apply to each crossing of a separate water of the United States (i.e. single waterbody) at that location; except that for linear projects crossing a single waterbody several times at separate and distant locations, each crossing is considered a single and complete project. However, individual channels in a braided stream or river, or individual arms of a large, irregularly-shaped wetland or lake, etc., are not separate waterbodies.

(j) *Special aquatic sites* means wetlands, mudflats, vegetated shallows, coral reefs, riffle and pool complexes, sanctuaries, and refuges as defined at 40 CFR 230.40 through 230.45.

### § 330.3 Activities occurring before certain dates.

The following activities were permitted by NWPs issued on July 19, 1977, and, unless the activities are modified, they do not require further permitting:

(a) Discharges of dredged or fill material into waters of the United States outside the limits of navigable waters of the United States that occurred before the phase-in dates which extended Section 404 jurisdiction to all waters of the United States. The phase-in dates were: After July 25, 1975, discharges into navigable waters of the United States and adjacent wetlands; after September 1, 1976, discharges into navigable waters of the United States and their primary tributaries, including adjacent wetlands, and into natural lakes, greater than 5 acres in surface area; and after July 1, 1977, discharges into all waters of the United States, including wetlands. (section 404)

(b) Structures or work completed before December 18, 1968, or in waterbodies over which the DE had not asserted jurisdiction at the time the activity occurred, provided in both instances, there is no interference with navigation. Activities completed shoreward of applicable Federal Harbor lines before May 27, 1970 do not require specific authorization. (section 10)

### § 330.4 Conditions, limitations, and restrictions.

(a) *General*. A prospective permittee must satisfy all terms and conditions of an NWP for a valid authorization to occur. Some conditions identify a “threshold” that, if met, requires additional procedures or provisions contained in other paragraphs in this section. It is important to remember that the NWPs only authorize activities from the perspective of the Corps regulatory authorities and that other Federal, state, and local permits, approvals, or authorizations may also be required.

(b) *Further information*. (1) DEs have authority to determine if an activity complies with the terms and conditions of an NWP.

(2) NWPs do not obviate the need to obtain other Federal, state, or local permits, approvals, or authorizations required by law.